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MERCHANT & GOULD, PC
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In re Application of
Faith M. Uckun
Serial No.: 09/838,821 : PETITION DECISION
Filed: April 19, 2001
Attorney Docket No.: 12152.77USD1

This is in response to the petition under 37 CFR 1.181, filed September 20, 2004, for withdrawal of abandonment based on incorrect mailing address.

A review of the file history shows that this application was filed by applicant's representatives, Merchant and Gould, as noted above, but failed to contain an executed declaration. A Notice of Missing Parts was mailed to Merchant and Gould. In reply Merchant & Gould filed a copy of a declaration from a parent application which contained a Power of Attorney to Schwegman, Lundberg, Woessner & Kluth (hereinafter Schwegman). In processing the completed application the correspondence was changed to Schwegman in view of the declaration. The examiner then mailed a first Office action to Schwegman on May 23, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the examiner mailed a Notice of Abandonment to Schwegman on February 5, 2004.

Applicant claims that a Power of Attorney to Merchant & Gould was filed with the application and that the Office erred in directing correspondence to Schwegman. Applicant is correct that a Power of Attorney to Merchant & Gould was filed in this application at the time the application was filed. However the filing of a signed declaration at a later date with a different Power of Attorney superceded the first Power of Attorney and the Office properly changed the correspondence address in response to the newly filed declaration even though the date of execution thereof was earlier than the execution date of the new Power of Attorney submitted with the application. The Office error was a direct result of applicant's actions. However, applicant's error appears to have been inadvertent. In view of the above facts, the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

As applicant has obtained a copy of the last Office action and submitted a reply thereto the application will be forwarded to the examiner for further action

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number.



Bruce M. Kisliuk
Director, Technology Center 1600